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United States Nuclear Regulatory Commission  
ATTN: Chief, Rulemaking, Directives and Editing Branch  
Division of Administrative Services  
Office of Administration  
Mail Stop TWB 5B01M  
Washington, DC 20555-0001

3/12/09

74 FR 10786

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**SUBJECT:** Comments on Proposed Regulatory Issue Summary Regarding Protection of Safeguards Information, 74 FR 10786 (March 12, 2009)

Progress Energy is pleased to submit the following comments on the subject proposed Regulatory Issue Summary (RIS). Progress Energy is committed to the proper control of Safeguards Information (SGI).

The following comments are provided for your consideration.

1. The proposed RIS provides little or no guidance/clarification regarding implementation of the rule. Upon implementation of 10 CFR 73.21, 22 and 23, Progress Energy understood that the NRC staff intended to issue a Regulatory Guide to specifically address appropriate ways to implement certain provisions outlined in the newly revised Rule (such as length of background checks or appropriate scope). For instance, the proposed RIS indicates under "Grandfathering of Persons with Current Access to SGI" acceptability of that access "...in a reasonably recent time period." What is a reasonable time period? We now understand that the NRC staff no longer plans to issue an applicable Regulatory Guide. Progress Energy strongly encourages the NRC staff to develop and issue an appropriate Regulatory Guide to provide the needed implementing guidance. Such guidance would be beneficial to both licensees and inspection personnel.
2. As stated in the RIS, implementation of newly modified SGI rulemaking does not supersede previously issued Orders; therefore, Progress Energy and other licensees will have to determine and meet the more restrictive requirements contained in, for example, EA-05-090, Order for Increased Controls for Certain Radioactive Material Licensees and the new 10 CFR 73.21, 22 and 23 regulations that became effective on February 23, 2009. The NRC should take immediate action to remove this unnecessary burden on licensees to maintain compliance with two competing regulatory documents (i.e., old Orders and new regulations that were intended to incorporate the previous Orders). Such action would be beneficial to both licensees and inspection personnel.

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E-REDS = ADM-03  
Add = R. Johnson (rln2)

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Please contact Lori Hayes at (919) 546-2505 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Bryan Miller". The signature is written in a cursive style with a large, stylized "D" and "M".

D. Bryan Miller

Lead Engineer – Nuclear Regulatory Affairs

DBM